



February 22, 2002

ENGROSSED SENATE BILL No. 461

DIGEST OF SB 461 (Updated February 19, 2002 5:14 PM - DI 84)

Citations Affected: IC 13-11; IC 13-18; IC 16-18; IC 16-19; noncode.

Synopsis: Residential sewage discharging systems in Allen County. With respect to onsite residential sewage discharging disposal systems installed to repair failed septic systems: (1) allows the local health department to issue operating permits under certain circumstances; (2) directs the state department of health (DOH) to take action to allow for the issuance of operational permits in the county; (3) directs the department of environmental management to apply for a general permit from the United States Environmental Protection Agency covering the point source discharge from onsite residential sewage discharging disposal systems in the county; and (4) directs DOH to take action to develop new residential septic system technologies.

Effective: Upon passage.

Long, Wyss, Meeks C

(HOUSE SPONSORS — HERRELL, RIPLEY, GIAQUINTA, BORROR)

January 14, 2002, read first time and referred to Committee on Environmental Affairs.
January 29, 2002, amended, reported favorably — Do Pass.
February 1, 2002, read second time, amended, ordered engrossed.
February 4, 2002, engrossed.
February 5, 2002, read third time, passed. Yeas 46, nays 2.

HOUSE ACTION

February 11, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 21, 2002, amended, reported — Do Pass.

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ES 461—LS 7180/DI 52+



February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-144.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 144.7. For purposes of**
4 **IC 13-18-12, "onsite residential sewage discharging disposal**
5 **system" means a sewage disposal system that:**
6 **(1) is located on a site with and serves a one (1) or two (2)**
7 **family residence; and**
8 **(2) discharges effluent offsite.**
9 SECTION 2. IC 13-11-2-199.5, AS ADDED BY P.L.193-2001,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 199.5. "Septic tank soil absorption system",
12 for purposes of **IC 13-18-12 and** IC 13-26-5-2.5, means pipes laid in
13 a system of trenches or elevated beds, into which the effluent from the
14 septic tank is discharged for soil absorption, or similar structures.
15 SECTION 3. IC 13-18-12-9 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: **Sec. 9. (a) This section applies only in a county**

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1 having a population of more than three hundred thousand
2 (300,000) but less than four hundred thousand (400,000).

3 (b) Except as provided in subsection (c), the point source
4 discharge of sewage, treated or untreated, from a dwelling or its
5 associated residential sewage disposal system to waters is
6 prohibited.

7 (c) The point source discharge of treated sewage from an onsite
8 residential sewage discharging disposal system to waters is
9 permitted if:

10 (1) the local health department for the jurisdiction in which
11 the system is located issues an operating permit for the system
12 under subsection (d); and

13 (2) the discharge is authorized under a general permit issued
14 under 40 CFR 122.28.

15 (d) The local health department for the jurisdiction in which the
16 system is located may issue an operating permit for an onsite
17 residential sewage discharging disposal system if the system is
18 installed to repair a failed sewage disposal system and if:

19 (1) the local health department establishes:

20 (A) maintenance requirements; and

21 (B) a maintenance education program;

22 for onsite residential sewage discharging disposal systems in
23 the jurisdiction;

24 (2) the local health department adopts a local ordinance for
25 monitoring onsite residential sewage discharging disposal
26 systems in the jurisdiction, including fines or penalties, or
27 both, for noncompliance, to ensure that:

28 (A) required maintenance is performed on the systems;
29 and

30 (B) the systems do not discharge effluent that violates
31 water quality standards;

32 (3) the local health department certifies, with respect to the
33 system for which the permit is issued, that:

34 (A) the system is capable of operating properly;

35 (B) the system does not discharge effluent that violates
36 water quality standards;

37 (C) an acceptable septic tank soil absorption system cannot
38 be located on the property served by the system because of:

39 (i) soil characteristics;

40 (ii) size; or

41 (iii) topographical conditions;

42 of the property;

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(D) the system:

- (i) was properly installed by a qualified installer; and**
- (ii) provides the best available technology for residential discharging onsite sewage disposal systems; and**

(E) the local health department has:

- (i) investigated all technologies available for repair of the failed sewage disposal system other than the use of an onsite residential sewage discharging disposal system; and**
- (ii) determined that an onsite residential sewage discharging disposal system is the only possible technology that can be used to effect a repair of the failed sewage disposal system without causing unreasonable economic hardship to the system owner; and**

(4) the system for which the permit is issued cannot be connected to a sanitary sewer because:

(A) unreasonable economic hardship would result to the system owner because of:

- (i) the connection requirements of the sanitary sewer operator; or**
- (ii) the distance to the sanitary sewer; or**

(B) the sanitary sewer operator refuses connection.

SECTION 4. IC 16-18-2-263.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 263.5. For purposes of IC 16-19-3, "onsite residential sewage discharging disposal system" means a sewage disposal system that:**

- (1) is located on a site with and serves a one (1) or two (2) family residence; and**
- (2) discharges effluent offsite.**

SECTION 5. IC 16-19-3-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) The state department of health shall:**

(1) study new technologies for residential septic systems that will perform satisfactorily as alternatives to currently operating septic systems that do not perform satisfactorily because of:

- (A) soil characteristics;**
- (B) lot sizes;**
- (C) topographical conditions; or**



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(D) high water tables; and

(2) take all actions necessary to develop plans and specifications for residential septic systems under the new technologies described in subdivision (1).

(b) The executive board shall adopt reasonable rules under IC 4-22-2 to:

(1) promulgate the plans and specifications developed under subsection (a);

(2) promulgate plans and specifications for residential discharging onsite sewage disposal systems; and

(3) allow for the issuance of operating permits for:

(A) residential septic systems that are installed in compliance with the plans and specifications promulgated under subdivision (1); and

(B) onsite residential sewage discharging disposal systems in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) that:

(i) are installed in compliance with the plans and specifications promulgated under subdivision (2); and

(ii) comply with IC 13-18-12-9.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION:

(1) "onsite residential sewage discharging disposal system" has the meaning set forth in IC 13-11-2-144.7; and

(2) "waters" has the meaning set forth in IC 13-11-2-265.

(b) The department of environmental management:

(1) shall take all actions necessary to apply for and obtain from the United States Environmental Protection Agency a general permit under 40 CFR 122.28 for a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) to cover the point source discharge to waters of sewage, treated or untreated, from an onsite residential sewage discharging disposal system installed to repair a failed sewage disposal system;

(2) is authorized to take all actions referred to in subdivision (1);

(3) shall take the actions referred to in subdivision (1) in an expeditious manner calculated to obtain the general permit as soon as possible; and

(4) shall report to the environmental quality service council



1 **before:**

2 **(A) August 1, 2002; and**

3 **(B) October 1, 2002;**

4 **the progress in obtaining the general permit.**

5 **(c) The state department of health and the executive board of**
6 **the state department of health shall:**

7 **(1) take the actions referred to in IC 16-19-3-27, as added by**
8 **this act, in an expeditious manner calculated to result in the**
9 **development of plans and specifications and the adoption of**
10 **rules as soon as possible; and**

11 **(2) report to the environmental quality service council before:**

12 **(A) August 1, 2002; and**

13 **(B) October 1, 2002;**

14 **the progress in developing plans and specifications and**
15 **adopting rules.**

16 **(d) This SECTION expires January 1, 2004.**

17 **SECTION 7. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 461, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 17, delete "Except as provided in subsection (b)," and insert **"This section applies only in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)."**

(b) Except as provided in subsection (c),"

Page 2, line 4, delete "(b)" and insert **"(c)"**.

Page 2, line 9, delete "(c);" and insert **"(d);" "**

Page 2, line 12, delete "(c)" and insert **"(d)"**.

Page 2, line 14, after "system" insert **"if the system is installed to repair a failed sewage disposal system and"**.

Page 2, line 29, delete "system:" and insert **"system is capable of operating properly;"**.

Page 2, delete lines 30 through 31.

Page 2, line 39, delete "and".

Page 3, between lines 1 and 2, begin a new line double block indented and insert:

"(E) the local health department has:

(i) investigated all technologies available for repair of the failed sewage disposal system other than the use of an onsite residential sewage discharging disposal system; and

(ii) determined that an onsite residential sewage discharging disposal system is the only possible technology that can be used to effect a repair of the failed sewage disposal system without causing unreasonable economic hardship to the system owner; and"

Page 4, line 1, after "systems" insert **"in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)"**.

Page 4, line 14, delete "the state" and insert **"a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)"**.

Page 4, line 15, after "discharge" insert **"to waters"**.

Page 4, line 16, delete "to" and insert **"installed to repair a failed sewage disposal system;"**.



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Page 4, delete line 17.

and when so amended that said bill do pass.

(Reference is to SB 461 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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SENATE MOTION

Mr. President: I move that Senate Bill 461 be amended to read as follows:

Page 2, line 24, delete "establishes a system" and insert "**adopts a local ordinance**".

Page 2, line 26, after "jurisdiction" insert ", **including fines or penalties, or both, for noncompliance,**".

(Reference is to SB 461 as printed January 30, 2002.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 7, delete "sewage, treated or untreated," and insert "**treated sewage**".

and when so amended that said bill do pass.

(Reference is to SB 461 as reprinted February 4, 2002.)

LYTLE, Chair

Committee Vote: yeas 10, nays 3.

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